

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ALMA MARIE DALE,

CASE NO. C13-1038-JCC

11 Plaintiff,

ORDER

12 v.
13 CAROLYN COLVIN,

14 Defendant.

15 The Court, having reviewed Plaintiff's Complaint (Dkt. No. 3), the Report and
16 Recommendation ("R&R") of U.S. Magistrate Judge James P. Donohue (Dkt. No. 24), Plaintiff's
17 objections (Dkt. No. 25), and the remaining record, hereby ADOPTS the R&R.

18 **I. BACKGROUND**

19 Plaintiff's application for disability benefits was denied initially and on reconsideration.
20 (Dkt. No. 3 at 2.) Following a hearing on September 13, 2011, the Administrative Law Judge
21 ("ALJ") affirmed the denial. (*Id.*) Plaintiff exhausted her administrative remedies and sought
22 review of the Commissioner's decision in this Court. Magistrate Judge Donohue recommended
23 affirming the Commissioner's decision. (Dkt. No. 24.)

24 **II. DISCUSSION**

25 **A. Standard of Review**

26 The Court reviews *de novo* the sections of a magistrate judge's report to which a party

1 objects. *See* 28 U.S.C. § 636(b)(1). The Court will not overturn the Commissioner's final
 2 decision if it is supported by substantial evidence. *See* 42 U.S.C. § 405(g) ("findings of the
 3 Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be
 4 conclusive"). "Substantial evidence is such relevant evidence as a reasonable mind might accept
 5 as adequate to support a conclusion." *Tommasetti v. Astrue*, 533 F.3d 1035, 1038 (9th Cir. 2008)
 6 (quoting *Orn v. Astrue*, 495 F.3d 625, 630 (9th Cir. 2007)). It need not be a preponderance of the
 7 evidence but must be more than a mere scintilla. *See id.* (citing *Connett v. Barnhart*, 340 F.3d
 8 871, 873 (9th Cir. 2003)).

9 "Where medical reports are inconclusive, questions of credibility and resolution of
 10 conflicts in the testimony are functions solely of the Secretary." *Id.*; *Matney v. Sullivan*, 981 F.2d
 11 1016, 1019 (9th Cir. 1992). The ALJ's credibility findings must be supported by specific, cogent
 12 reasons. *See Gregor v. Barnhart*, 464 F.3d 968, 972 (9th Cir. 2006).

13 **B. Medical Opinions**

14 The Court agrees with Plaintiff that the inconsistencies between the medical opinions in
 15 this case resemble those in *Morgan v. Commissioner of Social Sec. Admin.*, 169 F.3d 595 (9th
 16 Cir. 1999). Plaintiff, however, cites the dissenting opinion and thus incorrectly concludes that the
 17 court rejected the inconsistencies in that case. (Dkt. No. 25 at 7 (citing *Morgan*, 169 F.3d at 605
 18 (Noonan, J., dissenting)). The controlling opinion, however, recognized that the medical reports
 19 did not show how Plaintiff's symptoms translated into "specific functional deficits," and noted
 20 that specific examples of, for example, the plaintiff's ability to express himself could undermine
 21 the examining psychologist's opinion. *See id.* at 601. Where the reports found different levels of
 22 depression and improvement with medication, the court concluded that the reports were
 23 inconclusive at best. *See id.* That inconclusive evidence was "susceptible to more than one
 24 rational interpretation," so the court upheld the ALJ's opinion. *Id.* The *Morgan* court also found
 25 that the ALJ properly rejected medical opinions "in part because those opinions were premised
 26 on [the plaintiff's] subjective complaints," which the ALJ had discounted. *Id.* at 602.

1 Similarly, here, the ALJ discounted opinions in part because they were based on
2 subjective complaints that he had already found lacked credibility.¹ Also similarly, the reports
3 are “susceptible to more than one rational interpretation,” *id.*, so it is appropriate to uphold the
4 ALJ’s opinion. *See also Batson v. Comm’r of Soc. Sec. Admin.*, 359 F.3d 1190, 1193 (9th Cir.
5 2004) (court must defer to Commissioner’s decision if “evidence exists to support more than one
6 rational interpretation”).

7 Moreover, some of Plaintiff’s objections misrepresent the record. For example, the
8 Magistrate Judge recognized that Dr. Sandman’s description of Plaintiff’s functional limitations
9 included no observations; Plaintiff argues that the Magistrate Judge erred by pointing to other
10 sections of the report where Dr. Sandman included minimal observational findings. (Dkt. No. 25
11 at 5.)

12 **III. CONCLUSION**

13 For the foregoing reasons, the R&R is ADOPTED (Dkt. No. 24) and the decision of the
14 Commissioner is AFFIRMED.

15 DATED this 11th day of April 2014.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE

¹ Plaintiff does not discuss the ALJ’s finding that she lacked credibility; after examining the transcript, this Court sees no fault with that finding.